

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 31786 of 2020

Arising Out of PS Case No.-36 Year-2019 Thana- CHAUTHAM District- Khagaria

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Sujit Kumar Yadav, aged about 28 years (Male), Son of Suresh Yadav,
Resident of Village- Aadabari, P.S.- Chautham, District- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Viveka Nand Singh, Advocate
For the State : Mr. Md. Arif, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 03-12-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Mr. Viveka Nand Singh, learned counsel for the petitioner and Mr. Md. Arif, learned Incharge Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. Despite link having been forwarded to Mr. Anil Prasad Singh, learned APP who was assigned the brief, when the case was taken up, he did not appear and when the Technical Assistant of the Court tried to contact him on his telephone, there was no response.



4. The petitioner is in custody in connection with Chautham PS Case No. 36 of 2019 dated 17.02.2019, instituted under Sections 363, 366(A)/34 of the Indian Penal Code.

5. The allegation against the petitioner and others is of kidnapping the daughter of the informant.

6. Learned counsel for the petitioner submitted that the allegation is totally unfounded and in fact patently false. It was submitted that though the incident is said to have occurred on 14.02.2019 in the morning at 9.00 AM but the case has been registered only after three days on 17.02.2019. Learned counsel submitted that there is no eye witness to the incident and the informant in her subsequent statement to the police has stated that she had been informed by her younger daughter Sushma that she had seen the victim talking to the petitioner and thereafter the younger daughter had gone to school whereas in the statement before the police the younger daughter Sushma has stated that on 14.02.2019, she had seen her sister talking to the petitioner, who was standing near a Bolero and thereafter she had went to school and she had further disclosed to her mother that her sister had fled away with the petitioner. Learned counsel submitted that the other witnesses are hearsay witnesses. Learned counsel submitted that on 23.01.2020, the petitioner was arrested and the girl also



recovered and on the same day, her statement was recorded before the Court under Sections 164 of the Code of Criminal Procedure, 1973, in which she has stated that she had taken the petitioner to Ludhiana on 14.02.2019 and on her own volition had solemnized marriage with the petitioner and that she was living at Gogri village in the house of the brother of the petitioner.

7. Learned counsel submitted that the Court while recording the statement has opined the age of the girl to be about 18 years. It was submitted that the girl was also medically examined by a Board on 24.01.2020 and the age has been assessed to be 18-19 years. Learned counsel submitted that it is a case of love affairs where the petitioner and the girl are now husband and wife and the girl is legally competent to contract such marriage as she has crossed the age prescribed in law. Learned counsel submitted that the petitioner is in custody since 23.01.2020. Learned counsel submitted that the petitioner is accused in one other case being Chautham PS Case No. 20 of 2010, in which cognizance has been taken under Sections 341, 447, 323 and 504/34 of the Indian Penal Code which being bailable, he is on bail.

8. Learned APP submitted that the petitioner is accused of having kidnapped the 14 years old minor daughter of the



informant. However, he could not controvert that in her statement to the Court, her age has been assessed to be about 18 years and she has categorically stated that she had taken the petitioner and had married him and further that the Medical Board has also opined the age to be 18-19 years.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate 3rd Khagaria in Chautham PS Case No. 36 of 2019, subject to the condition that one of the bailors shall be a close relative of the petitioner.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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